IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.1546 OF 2005

Waman Kushaba Dhere ...Appellant

Vs.

Deelip Anandrao Patil & Ors. ...Respondents

Mr.S.A.Sawant for the Appellant
Ms Leena Patil i/b Mr.P.M.Pradhan for the Respondents.

CORAM: A.S.OKA, J.
DATED: MARCH 21,2006.

P.C.:

1. Heard Shri Sawant for the Appellant-original Plaintiff. A suit simplicitor for injunction filed by the original Plaintiff was dismissed by the Trial Court. The said decree has been confirmed by the Appellate Court. Paragraph 17 of the impugned Judgment of the Appellate Court shows that the claim in the Appeal was restricted to the area of 32 R. According to the case of the Appellant-Plaintiff, he came in possession of the said area of 32 R on the basis of the document of alleged mortgage deed executed by one Jaywant Patil on 19th October 1988 in favour of the Appellant-Plaintiff. The Appellate Court held that the said document dated 19th October 1988 has not been produced on record by the Appellant.

2. Shri Sawant for the Appellant submitted that apart from the said document, the Appellant was relying upon the revenue record which establishes the possession of the Appellant-Plaintiff. He, therefore, submitted that on the

basis of entries in the revenue record and other material, perpetual injunction ought to have been granted.

3. The foundation of the case of the Appellant in the plaint is document dated 19th October 1988. The specific case of the Appellant-Plaintiff is that he entered into the possession of the property on the basis of the said document. If the said document is not even produced on record, the Appellate Court was right in taking a view that the Appellant is not entitled to perpetual injunction. The suit was not based on the mere possession of the Appellant. The suit was based on the title which was claimed on the basis of the said document.

4. No substantial question of law arises. Second Appeal is dismissed with no order as to costs.

Judge.